THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16852 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the alleged action of the respondent Nos. 2 and 3 in processing the application of the 4th respondent for grant of a licence in Form 2-B for running a Bar and Restaurant in the premises bearing Door No.29-208-A, Chandrasekhar Theatre, Nandyal, Kurnool district, as arbitrary and illegal.

The petitioners, who claim to be the residents of the locality, alleged that the 4th respondent proposed to establish a Bar and Restaurant in the name and style of 'Sri Kanakambika Bar & Restaurant' in the premises situated in the Chandrasekhar Theatre, which is within 100 metres from two Government recognized educational institutions. It is contended that since the premises in question is located within the prohibited distance prescribed under Rule 6(1)(ii) of the Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005 (for short "the Rules"), they have submitted an objection petition before the respondents 1 to 3. However, the respondents failed to consider the said objections. Hence, this writ petition.

In the counter affidavit filed on behalf of the respondents 1 to 3, it is explained that Shiridhi Sai Public School, situated on Nandyal to Koilakuntla Road, and another School by name Ayyappa Vidyaniketan are at a distance of 115 mts and 118 mts respectively, from the premises in question. It is stated that on enquiry the objections raised by the petitioners were found to be without any basis and were raised only due to professional rivalry.

A separate counter affidavit has been filed by the 4th respondent on the same lines.

I have heard the learned counsel for both the parties in detail.

The learned counsel for the petitioners vehemently contended that the distance between the licensed premises and the Schools was not measured following the procedure prescribed under Rule 6 of the Rules. It is pointed out that as per the Explanation to Rule 6 of the Rules, the distance has to be measured from the mid-point of the entrance of the proposed Bar premises along with the nearest path by which pedestrians ordinarily reach to the mid point of the nearest gate of the educational institutions, if there is a compound wall, and if there is no compound wall to the mid-point of the nearest entrance of the educational institutions or to the entrance of the first house of the predominantly residential area.

Though the allegations made by the petitioners have been denied in the counter affidavits, having regard to the nature of the controversy, without expressing any opinion on merits, I deem it appropriate to dispose of the writ petition with a direction to the 2nd respondent to get the distance between the licensed premises and the two schools, re-measured in the presence of the petitioners as well as the 4th respondent and take appropriate decision in accordance with law. Such exercise shall be completed as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs.

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(G. ROHINI, J.)

21st December, 2006.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16852 OF 2006

21st December, 2006.

Between:

Gopal Rao and another. .. Petitioners.

And

The Commissioner of Prohibition & Excise,
Hyderabad and others. .. Respondents.